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Supreme Court, U.S.
FILED
MAY 19 1994
OFFICE OF THE CLERK

No. 93-1539

In The

Supreme Court of the United States

October Term, 1993

STATE OF LOUISIANA, et al.,

Appellants,

vs.

RAY HAYS, et al.,

Appellees.

On Appeal From A Three-Judge Panel Of The United States District Court For The Western District Of Louisiana

SUPPLEMENTAL BRIEF REGARDING MOOTNESS

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SUPPLEMENTAL BRIEF REGARDING MOOTNESS

This is an appeal from an order of the three-judge court enjoining further use of the Louisiana congressional districting plan enacted in 1992. That plan, contained in Act 42 of the 1992 Louisiana Legislature, was codified in La. Rev Stat. 18:1276.3. Subsequent to the filing of the Jurisdictional Statement and Motion to Affirm in this case, the 1992 districting plan was repealed.

On April 22, 1994, the governor of Louisiana signed into law Act 1 of the Second Extraordinary Session of the 1994 Louisiana Legislature. Section 2 of the Act provides: "Revised Statute 18:1276.3 is hereby repealed." Section 1 of the 1994 Act establishes new congressional district lines.[1] On April 29, 1994, the state submitted this new redistricting plan to the United States Department of Justice for preclearance under section 5 of the Voting Rights Act. If the 1994 redistricting plan is approved by the Department of Justice, the controversy underlying the decision below and the instant appeal will be moot.

The injunction issued by the district court was narrowly framed to apply only to the now repealed 1992 districting plan:

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[1] Under the 1994 plan, the black voter age population of District 4 has been reduced to 55%. This is the reduction in the number of blacks which the district court suggested and the appellees had sought. See Motion to Affirm, pp. 19, 24. Also the shape and location of the new district 4 are significantly different from its prior incarnation. Unlike the prior district, the new one follows the path of the Red River through the center of the state, and is no longer, as described by the district court, "Z-shaped".

> [We] declare Act 42 of 1992 to be unconstitutional and the districting plan embodied therein to be null and void; and we enjoin the State of Louisiana from holding future congressional elections based on the plan.

(J.S. 54) The district court injunction neither imposed any requirement regarding any future districting plans nor directed that any such plans be submitted for judicial approval. If preclearance of the 1994 plan is obtained, because it repeals the prior plan, the State of Louisiana could not enforce the superceded 1992 plan even if the decision of the district court were overturned by this court.

Because the Department of Justice has not yet acted on the state's request for preclearance of the 1994 plan, we suggest the Court defer action on the Jurisdictional Statement and Motion to Affirm. We will promptly notify the Clerk of Court if preclearance is obtained, which should occur before the end of the current term. At that juncture the appropriate course would be for the Court to vacate as moot the decision of the district court and

remand. *Hall v. Beals*, 396 U.S. 45, 50 (1969); *Berry v. Davis*, 242 U.S. 468, 470 (1917).

Respectfully submitted,

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